

Message Text

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ACTION L-03

INFO OCT-01 EA-07 ISO-00 JUSE-00 COME-00 EB-07 CIAE-00

DODE-00 PM-04 H-02 INR-07 NSAE-00 NSC-05 PA-01 PRS-01

SP-02 SS-15 USIA-06 IO-13 TRSE-00 /074 W

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FM AMEMBASSY RANGOON
TO SECSTATE WASHDC 1387

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FOR L/PM

E.O. 11652: N/A

TAGS: PGOV PFOR BM

SUBJ: CABINET TASK FORCE ON QUESTIONABLE PAYMENTS ABROAD: FOREIGN
LAWS ON QUESTIONABLE PAYMENTS

REF: A. STATE 094647; B. RANGOON 3147

1. FOLLOWING RESPONSES KEYED TO QUESTIONS A THROUGH F IN REF A:

A. YES, CHAPTER IX OF PENAL CODE AND THE SUPPRESSION OF CORRUPTION
ACT.

B. NO SPECIFIC REGULATIONS REQUIRE DISCLOSURE OF PAYMENTS; HOWEVER,
LOCAL LEGAL EXPERTS BELIEVE SECTIONS 162 AND 163 OF PENAL CODE
SUFFICIENTLY BROAD TO COVER DISCLOSURE OF PAYMENTS.

C. YES, GUB FOREIGN TRADE MONOPOLY, MYANMA EXPORT IMPORT CORPORA-
TION (MEIC), IS ONLY LEGAL ENTITY FOR SALES REPRESENTATION OF
FOREIGN FIRMS DEALING WITH BURMA. FOR GREATER DETAILS SEE REF B.

D. NO, THIS QUESTION NOT APPLICABLE TO BURMESE SITUATION. BURMA
SOCIALIST PROGRAM PARTY (BSPP) IS ONLY LEGAL POLITICAL PARTY IN
BURMA AND IT IS FUNDED FROM STATE BUDGET. ALTHOUGH PRIVATE
CONTRIBUTIONS TO BSPP NOT SPECIFICALLY RESTRICTED OR PROHIBITED,
THERE IS NO KNOWN PRECEDENT FOR SUCH CONTRIBUTIONS. BURMESE LEGAL
EXPERTS OF OPINION THAT IF SUCH A CONTRIBUTION WERE MADE, IT WOULD
HAVE TO GO INTO THE GENERAL FUND AND BE REALLOCATED TO THE PARTY
BY THE PEOPLE'S ASSEMBLY JUST AS WOULD ANY CONTRIBUTION TO A
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GOVERNMENT AGENCY. CONTRIBUTIONS TO A POLITICAL ORGANIZATION OTHER

THAN BSPP WOULD, OF COURSE, BE ILLEGAL BECAUSE THE ORGANIZATION ITSELF WOULD BE CONSIDERED ILLEGAL.

E. NO, SEE ABOVE.

F. NO, ALTHOUGH THERE MAY BE SOME GENERAL LEGISLATION IN THIS REGARD STILL ON RECORD, IT IS PARTICULARLY IRRELEVANT TO BURMA. UNDER BURMA'S SOCIALIST SYSTEM, THE STATE CONTROLS NEARLY ALL FACETS OF ECONOMIC AND COMMERCIAL ACTIVITY INCLUDING FOREIGN TRADE, BANKING, UTILITIES, LARGE AND MOST SMALL INDUSTRIES, EXTRACTIVE INDUSTRIES AND MANY SMALL ENTERPRISES.

2. SUMMARY OF PERTINENT LEGISLATION

TWO ACTS SEEM TO APPLY DIRECTLY TO QUESTION IN REF A:

(1) PENAL CODE, CHAPTER IX, SECTIONS 161 TO 169 PROHIBITS PUBLIC SERVANTS FROM ACCEPTING OR ATTEMPTING TO OBTAIN THINGS OF VALUE FOR PERFORMING (OR NOT PERFORMING) OFFICIAL DUTIES OR GRANTING SPECIAL FAVORS; PROHIBITS ANYONE FROM SOLICITING THINGS OF VALUE TO INFLUENCE OFFICIAL DECISIONS; PROHIBITS PUBLIC SERVANTS FROM ABETTING THE SOLICITATION OF THINGS OF VALUE TO INFLUENCE THEIR ACTS; PROHIBITS PUBLIC SERVANTS FROM ACCEPTING THINGS OF VALUE FROM SUBORDINATES OR THOSE WITH WHOM THEY HAVE OFFICIAL TRANS-ACTIONS; PROHIBITS PUBLIC SERVANTS FROM ENGAGING IN TRADE; AND PROHIBITS PUBLIC SERVANTS FROM BIDDING DIRECTLY OR INDIRECTLY ON GOVERNMENT CONTRACTS, PROPERTY ETC. IN WHICH THEY ARE OFFICIALLY INVOLVED.

(2) THE SUPPRESSION OF CORRUPTION ACT CLARIFIES PERTINENT SECTIONS OF PENAL CODE BY STATING PRESUMPTION THAT, UNLESS OTHERWISE PROVEN, GIFTS OF VALUE TO PUBLIC SERVANTS ARE MADE TO INFLUENCE OFFICIAL ACTION; IF PUBLIC SERVANT HAS RESOURCES NOT COMMENSURATE WITH HIS INCOME, THESE RESOURCES WERE OBTAINED IN VIOLATION OF PENAL CODE; AND EMPOWERS ARRESTING AUTHORITY TO INSPECT BOOKS AND DOCUMENTS OF PERSON ACCUSED OF ACCEPTING ILLEGAL GIFTS.

HOWARTH

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